



Deposition of:  
**Able Non-Emergency Medical Transport  
Service, LLC**

*October 28, 2021*

In the Matter of:  
**Alabama Public Service Commission / IN  
RE:**

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ALABAMA PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

ABLE NON-EMERGENCY MEDICAL  
TRANSPORT SERVICE, LLC

DOCKET NO. 33164

Application to extend existing operation for  
Able Non-Emergency Medical Transport Service.

\* \* \* \* \*

TESTIMONY AND PROCEEDINGS, taken before  
Administrative Law Judge Sue Ellen Young, and  
reported by Haley Tunnell, Certified Court  
Reporter and Commissioner for the State of  
Alabama at Large, at Carl L. Evans Chief  
Administrative Law Judge Hearing Complex, RSA  
Union Building, 100 North Union Street, Room  
900, Montgomery Alabama, on October 28, 2021, at  
approximately 9:20 a.m.

\* \* \* \* \*

APPEARANCES

FOR THE APPLICANT:

Mr. Herbert Barber, Jr.

574 Golson Road East

Fort Deposit, Alabama 36032

\* \* \* \* \*

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BERTHA CROWELL

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1                   ALJ YOUNG:     For the record, today  
2     is October 28th, 2021.   We are here for  
3     Docket 33164.   This hearing is scheduled for  
4     9:00 a.m.   It is now 9:20.   This is an  
5     application to extend an existing operation  
6     under Motor Carrier Certificate of Public  
7     Convenience and Necessity 4125 and P651 as a  
8     common and contract carrier in intrastate  
9     commerce over irregular routes in the  
10    transportation of passengers and their  
11    baggage between all points in the state of  
12    Alabama.   The applicant currently holds  
13    Certificate 4125 and P651, which authorizes  
14    the transportation of passengers among and  
15    between the counties of Butler, Dallas,  
16    Lowndes, Montgomery, and Crenshaw Counties,  
17    Alabama.

18                   The date this application was  
19    filed was on or about October 5, 2021, and  
20    the date the notice of hearing was served was  
21    on or about October 6, 2021.   My records  
22    indicate that an intervention has been filed  
23    in this matter on behalf of M&M Mobility,

1 Inc., of Montgomery, Alabama, DBA Caravan  
2 Transport. At the present time, let the  
3 record reflect that the intervenor, M&M  
4 Mobility, Inc., has not appeared at the  
5 hearing.

6 So to begin with we will take  
7 appearances. I need to know who is appearing  
8 on behalf of the applicant, and I need your  
9 name, your position, and your business  
10 address, please. And you can take your mask  
11 off if you choose. It's up to you.

12 MR. BARBER: My name is Herbert  
13 Lamar Barber, Jr. I'm the Vice President of  
14 the Able Home Care and Non-Emergency Medical  
15 Transport Services located at 574 Golson Road  
16 East, Fort Deposit is the primary address.  
17 My secondary address is 4200 Carmichael Court  
18 North, which is in Montgomery, Alabama 36106.

19 ALJ YOUNG: All right. Are there  
20 any further appearances?

21 MR. BARBER: I have a witness on my  
22 behalf.

23 ALJ YOUNG: All right. If you can

1 give us your witness's name and address.

2 MR. BARBER: My witness's name is  
3 Bertha Crowell, and her address is 4310  
4 Parker Lane, Montgomery, Alabama 36116.

5 ALJ YOUNG: All right. Thank you.  
6 Is there anyone else who needs to make an  
7 appearance?

8 (No response)

9 ALJ YOUNG: Let the record reflect  
10 that no one else has come forward.

11 Are there any preliminary matters  
12 we need to discuss, like changes to your  
13 application or updated information or  
14 anything of that nature?

15 MR. BARBER: No.

16 ALJ YOUNG: All right. At this time  
17 I'll swear in the witnesses, so if you'll  
18 both stand, raise your right hand.

19 (Witnesses sworn.)

20 ALJ YOUNG: Let the record reflect  
21 that both witnesses have affirmed.

22 At this time, you'll make your  
23 presentation for your case. I need you to

1 talk about your background, your experience  
2 in the industry, what services you seek to  
3 provide. You have the burden of showing that  
4 you are fit, willing, and able to perform the  
5 services that you are asking for or that you  
6 propose and that it is in the public  
7 convenience and necessity that these services  
8 are added, and with the contract that it is  
9 not detrimental to the public; basically,  
10 that is to existing services. So I need you  
11 to speak to both the contract and the common  
12 carrier authority because they are separate.

13 MR. BARBER: This is my statement in  
14 support of my application to include it is my  
15 intention to provide nonemergency medical  
16 transportation to the counties that I have  
17 received authority to operate in as of the  
18 15th day of September 2021 granted through  
19 the Alabama Public Service Commission. The  
20 manner in which I will be providing this  
21 service or these services is by transporting  
22 individuals from their place of residence  
23 and/or facilities to other community-based

1 facilities such as clinics, doctor's offices,  
2 hospitals, nursing homes, and other  
3 destinations deemed necessary for individuals  
4 who cannot drive their own personal vehicles  
5 or whose overall health puts them at risk for  
6 serious illness, injury leading to and  
7 including death. The wheelchair van will be  
8 my primary transportation. My qualifications  
9 as a veteran registered nurse of over 25  
10 years clinical experience makes me uniquely  
11 qualified to provide these services.

12 The manner in which I determine  
13 the need for this service was performed by  
14 interviewing health care organizations within  
15 the river region and surrounding counties as  
16 well as community interaction with private  
17 citizens that needed the services as well.

18 At this time, we are in the  
19 process of training three other drivers by  
20 one-on-one observations, literate study, and  
21 hands-on evaluation of tenants or regulations  
22 necessary to provide the service in a safe  
23 and efficient manner.



1                   We have obtained and currently  
2                   hold insurance with National Fire and Marine  
3                   Insurance Company.

4                   At this time, I am not aware of  
5                   any significant citations or violations of  
6                   the road on a local, state, or federal level.

7                   Finally, I have read and  
8                   understand the rules and regulations and  
9                   subsequent documents linked with the safe  
10                  practice of non-emergency transportation  
11                  services that the Commission adopts.

12                  In reference to the letters, as  
13                  to the intent to protest Docket 33164(y) made  
14                  by M&M Mobility, who has such authority  
15                  Certificate 4058 and can accommodate any  
16                  trips from Montgomery where Able is based to  
17                  all points in the state. They have stated  
18                  the addition to competition will be  
19                  detrimental to their operation. I have with  
20                  me individuals -- an individual who is  
21                  willing to stipulate that the services that  
22                  Able will render on a statewide basis would  
23                  not be detrimental to their business, but

1 will, in fact, create an opportunity to allow  
2 individuals the freedom to chose who or what  
3 entity provides them this most necessary  
4 service.

5 The services that we are  
6 providing are essential to both the 911  
7 service providers and the members of the  
8 community. There is no way one company can  
9 serve the entire state. I feel that all  
10 companies that are opening are vital.  
11 Hospital discharges wait times are  
12 ridiculous. Over 65 percent of all dialysis  
13 patients rely solely on non-emergency medical  
14 transport providers to get them to and from  
15 these lifesaving treatments. Able  
16 non-emergency Medical Transportation is  
17 providing services that will help elevate  
18 conditions under 911 respondents and patients  
19 who are in need of vital transport. The more  
20 non-emergency medical transport providers  
21 there are the better. We are also creating  
22 jobs here for local individuals. That's the  
23 end of my statement.

1           ALJ YOUNG: All right. Let me ask  
2           you just a few questions.

3                       So part of what you are asking  
4           for is contract carrier service; what kind of  
5           contracts?

6           MR. BARBER: I am beginning  
7           negotiations with several entities here in  
8           the state. Majority are based right here in  
9           Montgomery, and they have offices in  
10          Birmingham and also in Alexander City, you  
11          know, throughout the state. So what I'm  
12          trying to do is set up the opportunity where  
13          I can transport their patients from one  
14          hospital to another hospital if necessary  
15          from Montgomery to Birmingham, from  
16          Montgomery to Talladega, from Montgomery to  
17          Huntsville, if necessary, from Montgomery to  
18          Auburn, all the points in the state, and I  
19          have been speaking to them, but I cannot  
20          operate until I get ready through you all in  
21          order to --

22                 ALJ YOUNG: But what entity -- what  
23          type of entity are you talking about

1 contracting with? Is it a --

2 MR. BARBER: It's a home health  
3 agency and a rehabilitation hospital and  
4 also --

5 ALJ YOUNG: Doctor offices?

6 MR. BARBER: Doctor offices have  
7 also expressed their need for that service,  
8 and then I also had close communications with  
9 some home health and hospices in different  
10 areas of the state.

11 ALJ YOUNG: What about like  
12 insurance -- some of the brokers,  
13 Access2Care, LogistiCare that broker out  
14 transportation services for insurance  
15 providers?

16 MR. BARBER: Now, at this point, we  
17 have made application with the CAQH, which is  
18 insurance companies that offer their private  
19 citizens opportunity to use our services on  
20 private basis through their healthcare  
21 insurance. We've also made application with  
22 Medicare Part B that will allow us to operate  
23 and participate in the Medicare system in

1 order to bring the services to those  
2 individuals that I have stipulated in my  
3 contract -- in my statement that rely on  
4 non-emergency medical transport services for  
5 dialysis treatment. So we've made  
6 application to all of these entities, but in  
7 order for us to be able to provide those  
8 services we have to have authority through  
9 you all.

10 ALJ YOUNG: Certainly. I'm just  
11 trying to get information to distinguish  
12 between the authority you seek as a common  
13 carrier and the authority you seek as a  
14 contract carrier.

15 MR. BARBER: Right.

16 ALJ YOUNG: Because you have both of  
17 those, so you have to cover both of those.

18 MR. BARBER: Yes.

19 ALJ YOUNG: What would your hours of  
20 operation be?

21 MR. BARBER: The hours of operation  
22 as currently stipulated will be from 7:00 in  
23 the morning to 10:00 or 11:00 at night

1       depending upon the need.

2               ALJ YOUNG: All right. And what  
3       would be your lead time -- how much notice do  
4       you need before someone makes a reservation?

5               MR. BARBER: Well, we're asking for  
6       a minimum of 24 hours, but if it's an  
7       emergency situation, we will ask for at least  
8       six hours notice before we can, you know,  
9       evaluate our scheduling because we don't want  
10      to overbook ourselves.

11              ALJ YOUNG: And so when you -- how  
12      many total vehicles are you proposing?

13              MR. BARBER: Right now I have two  
14      vehicles with a third one on the way. It's  
15      going to allow us to provide a greater  
16      expanded service because most of the people  
17      that I have come in contact with are  
18      bariatric in nature and they can only be  
19      transported, you know, with an ambulance.  
20      Well, we have an option that's going to be,  
21      you know, better than them having to spend  
22      \$745 to go to wherever they need to go on an  
23      ambulance. What we're proposing is I have

1       bought a van that will allow for a gurney to  
2       be locked into place and to provide those  
3       services to elevate the 911 calls because,  
4       you know, Care and Haynes cannot properly --  
5       you know, they're behind. They got 911  
6       calls, then they have transfers to and from  
7       the facilities. So my idea is to have a  
8       wheelchair accessible vehicle that will  
9       accommodate wheelchairs and also gurneys --  
10      stretchers is the common term to where we can  
11      get them inside the vehicle and transport  
12      them. Now, it's only one stretcher that will  
13      fit inside this van, but there is a locking  
14      system that will keep them safe during the  
15      transfer.

16               ALJ YOUNG: Do you intend on  
17      providing transportation for emergency  
18      patients?

19               MR. BARBER: Now, at this point, we  
20      are not entertaining that notion because we  
21      will have to have certification through a  
22      different entity.

23               ALJ YOUNG: Yeah. That's what I

1 wanted to make sure.

2 MR. BARBER: No, we're not going to  
3 do that. We're going to stick with the  
4 non-emergency medical transport. We're not  
5 doing emergency.

6 ALJ YOUNG: Would you say like  
7 nursing homes and places like that would be  
8 your --

9 MR. BARBER: Yes.

10 ALJ YOUNG: So at the present time  
11 you have Butler, Dallas, Lowndes, Montgomery,  
12 and Crenshaw Counties, and you're adding the  
13 rest of the state. So what has led you to  
14 the belief that there is a need for  
15 additional service in the whole state of  
16 Alabama?

17 MR. BARBER: Because I have received  
18 phone calls from many of my practitioner  
19 friends saying that there is a need in  
20 Autauga, Elmore, over in Tuskegee, down in  
21 Auburn, over in Opelika. You know, being a  
22 registered nurse we have a network that we  
23 operate in, and they have been telling me



1       that there is a great need for my services in  
2       all of these areas, but I have to be  
3       proactive and not just apply for one county  
4       at the time. So my intention is to apply for  
5       the entire state so that the opportunity will  
6       be available to us to grow into the state,  
7       you know, and provide these services. And  
8       also have opportunity to hire people in those  
9       localities as well to provide the services.  
10      So we're not just -- we're going to be housed  
11      and based pretty much in Fort Deposit. It's  
12      going to be where the business is actually  
13      credentialed out of, but we also have the  
14      office in Montgomery, and we're planning on  
15      putting offices throughout the state in the  
16      north, the east, the south, and the west to  
17      be able to prepare ourselves to be able to  
18      provide those services to those -- to those  
19      individuals who need -- because I know for a  
20      fact there's a lot of people in these rural  
21      areas that do not have access to healthcare  
22      because they don't have transportation to  
23      their doctor's appointments. And from what I

1 can tell, even in my county there is a  
2 45-minute drive to Montgomery if you have an  
3 emergency situation or there's a 45 minute  
4 drive to the nearest hospital. Well, 911  
5 cannot sufficiently supply that coverage  
6 because there is only a number of ambulance  
7 services in each county. And they only have  
8 so many ambulances that are actively working.  
9 And then they have to take into account a  
10 number of social events that they have to be  
11 in attendance for. They also have emergency,  
12 you know, situations that come up in the  
13 county. I was -- I was, you know, less than  
14 impressed about four or five years ago a  
15 close family friend of ours fell ill, and  
16 they had an unknown substance in their  
17 system. Well, guess what, they live on the  
18 Butler, Lowndes County line, and they sent an  
19 ambulance up, but when they found out that  
20 the person did not live on the Butler side of  
21 the county line, they stopped, turned around,  
22 and called an ambulance out of Hayneville,  
23 which was 40 minutes away from where the

1 person was located because the county line  
2 was not in their jurisdiction. And I was  
3 doing CPR for close to 45 minutes on this  
4 young man who subsequently died for lack of  
5 care and no one was able to come properly  
6 assess this young man to where he could --  
7 his life could have been saved, and he could  
8 have went to a hospital and would have been  
9 living today. So I see it everyday in my  
10 nursing career. People have this  
11 overwhelming need for services and  
12 opportunity to save their own lives.

13 ALJ YOUNG: Okay.

14 MR. BARBER: If you call 911 you  
15 expect somebody to answer; right? Well,  
16 guess what, 911 can't -- is not able --  
17 especially with this pandemic.

18 ALJ YOUNG: But you're not going to  
19 provide 911 emergency services?

20 MR. BARBER: No. But what I'm  
21 saying is for individuals who have that need,  
22 if someone just needs a ride to the doctor's  
23 appointment, they don't have to consider that

1 individual as part of their -- part of their  
2 rotation. Now they can focus on the 911  
3 calls, and we can transfer the transportation  
4 to and from their doctor's office.

5 ALJ YOUNG: Let me ask you about  
6 this. So if you had a call for someone at  
7 the nursing home, so it's a -- that wants to  
8 go to the beauty parlor, so is that a  
9 non-emergency medical transportation?

10 MR. BARBER: It is.

11 ALJ YOUNG: Because of the nature of  
12 the patient?

13 MR. BARBER: That's right.

14 ALJ YOUNG: That's what I just  
15 wanted to -- we don't have any clear  
16 definition of that so that's what I wanted.

17 MR. BARBER: Yeah. I understand.

18 ALJ YOUNG: Okay. And you've  
19 already told us you are familiar and willing  
20 to comply with the rules of the commission.  
21 So is there anything else you would like to  
22 add before we will have the witness.

23 MR. BARBER: That's all I have to

1 say.

2 ALJ YOUNG: All right. If you want  
3 to call your witness. If you want to sit  
4 just up here. Are you going to ask her  
5 questions or are do you want her to just give  
6 a narrative?

7 MR. BARBER: I'm going to ask her a  
8 question or two.

9 ALJ YOUNG: Okay. All right. Well,  
10 she can come and sit right here so the court  
11 reporter can hear her, and you can ask her  
12 questions, and I can see her. And I'll  
13 remind you that you have already been  
14 previously sworn in. If you'll just state  
15 your name again and where you work -- your  
16 connections here and then --

17 THE WITNESS: Okay. Good morning.  
18 First of all, my name is Bertha Crowell. I  
19 am a client of Mr. Lamar -- my husband. I  
20 was referred to him a few months ago. My --  
21 just to give you a little background my  
22 husband was involved in a serious car  
23 accident at the end of March and had to be

1 transported to UAB Hospital for several  
2 surgeries. He's in the recovery phase now.  
3 It's a long process, but he's recovering now,  
4 and we rely on Mr. Lamar to get us back and  
5 forth to UAB each month. He has monthly  
6 appointments with the trauma team and the  
7 infectious disease doctors. Those are two  
8 separate appointments. Prior to learning  
9 about Mr. Lamar, we had to utilize, because  
10 my husband's injuries, ambulance services and  
11 because it was a non-emergency request it was  
12 very expensive, very expensive, and we didn't  
13 have it and we still don't have it. And he  
14 has actually saved us because my husband  
15 would not be able to even attend his monthly  
16 appointments had we not been referred to  
17 Mr. Lamar, and we're so appreciative and  
18 grateful for that. And also he transports my  
19 husband back and forth to his doctor's  
20 appointments, and we have a -- my husband has  
21 to get his second -- well, he has to start  
22 over with his vaccines because he only had  
23 one prior to the accident, so Mr. Lamar will

1       also transport him to Walgreen's to get his  
2       second vaccine. So we are relying on him  
3       quite a bit right now; if not, I'm not for  
4       sure how we will make that work, to be honest  
5       with you.

6               ALJ YOUNG: You got some questions  
7       for her?

8               BERTHA CROWELL,  
9       having previously been sworn, testified  
10      as follows:

11                   EXAMINATION

12      BY MR. BERNARD:

13      Q.     So with my services -- would you say my  
14      services are efficient and economical?

15      A.     Yes.

16      Q.     It's not an undue burden on his pocket?

17      A.     \$4,000 from Montgomery to Birmingham in  
18      comparison to 300 is a big difference, and right  
19      now something that we will gladly pay, to be  
20      honest.

21      Q.     Now, with that being said, do you think  
22      that my service is to where we are able to meet  
23      your need in a timely and efficient manner and

1 get you to and from you appointments on time  
2 without any delays?

3 A. Right. We have not had any problems at  
4 all, and I appreciate and was a little shocked  
5 that he only required a 24-hour notice even  
6 though -- you know, he already has my husband's  
7 November 8th appointment. But just -- that  
8 takes a lot of stress off of a caregiver.  
9 That's one less thing we have to think about in  
10 caring for -- you know, for me, for my husband,  
11 that's one thing that I can just scratch off my  
12 list that helps me.

13 Q. And then last but not least, when we get  
14 Part C Certification, will our services be  
15 necessary to continue to provide the service to  
16 where you're not out of pocket, you're actually  
17 using your insurances to provide the service and  
18 to pay for the service, would that be helpful  
19 for your situation?

20 A. That would be very helpful for our  
21 situation.

22 Q. Let me ask a question: Has Mr. Barber  
23 helped you with transportation to -- was it UAB?



1 A. Uh-huh.

2 Q. All right.

3 A. The Kirkland Clinic.

4 Q. Okay.

5 ALJ YOUNG: I'm just asking because  
6 your authority at present time does not allow  
7 you to take someone to UAB to Birmingham.

8 MR. BARBER: Okay.

9 ALJ YOUNG: So that -- so that's a  
10 back to familiarity and willingness to comply  
11 with the rules. So until or if such time as  
12 you receive this additional authority, would  
13 you be -- would you operate within the rules  
14 and within --

15 MR. BARBER: Yes.

16 ALJ YOUNG: -- the territory that  
17 you have at this time?

18 MR. BARBER: Yes.

19 ALJ YOUNG: Okay. All right. Is  
20 there anything else you would like to add?

21 THE WITNESS: No, I don't have  
22 anything to add.

23 ALJ YOUNG: All right. Anything you

1 would like to add?

2 MR. BARBER: No.

3 ALJ YOUNG: All right, sir. I don't  
4 show that we have anything to be submitted  
5 post hearing. I believe that will conclude  
6 this hearing, and I'll take it under  
7 advisement. Thank you.

8 Let the record reflect that the  
9 protestant M&M Mobility has not shown up, and  
10 it is now 9:45, and the hearing is in  
11 conclusion now.

12 (Proceedings adjourned at 9:45  
13 a.m.)

14 \* \* \* \* \*

15 END OF PROCEEDINGS

16 \* \* \* \* \*

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REPORTER'S CERTIFICATE

STATE OF ALABAMA

MONTGOMERY COUNTY

I, Haley Tunnell, Court Reporter,  
Commissioner for the State of Alabama at Large,  
hereby certify that on October 28, 2021, I  
reported the testimony and proceedings in the  
foregoing cause and that pages 3 through 25  
contain a true and accurate transcription of the  
proceedings set out herein.

I further certify that I am neither kin nor  
counsel to any of the parties to said cause, nor  
in any manner interested in the results thereof.



HALEY TUNNELL, Court Reporter

Commissioner for the

State of Alabama at Large

ACCR 639, Expires 09/30/22

MY COMMISSION EXPIRES: 02/25/23

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